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**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
PENNSYLVANIA**

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<b>MARTIN W. JONES,</b>	:	<b>Civil Action No. 19-CV-4678</b>
	:	
<b>Plaintiff</b>	:	<b>JURY TRIAL DEMANDED</b>
<b>v.</b>	:	
	:	
<b>FRANK NAJERO and</b>	:	
<b>JOSHUA MALLERY,</b>	:	
	:	
<b>Defendants</b>	:	

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**DEFENDANT, JOSHUA MALLERY’S STATEMENT OF UNDISPUTED FACTS IN  
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

1. On or about November 7, 2017 a cell phone owned by Plaintiff, ZTE Model Z717VL was seized following Plaintiff’s arrest on that date by Defendant Najera. (See Najera 003 -004 as attached to Najera’s Motion for Summary Judgment and attached hereto).
2. Plaintiff’s cellphone remained in the Custody of the Lehigh County Drug Task Force. (See Najera 036 as attached to Najera’s Motion for Summary Judgment and attached hereto).
3. Defendant Mallery requested Defendant Najera’s assistance with obtaining Plaintiff’s consent authorizing a search of the cellphone. (See Najera 036 as attached to Najera’s Motion for Summary Judgment and attached hereto; Docket Document 70, p 35).
4. On January 10, 2018 Plaintiff travelled to Upper Saucon Police Headquarters and met with Defendant Najera and executed a consent form authorizing a search of the cellphone. (See

Najera 036, 038 as attached to Najera's Motion for Summary Judgment and attached hereto).

5. A true and correct copy of the written consent form signed by Plaintiff on the morning of January 10, 2018 is attached hereto. (See Najera 038, as attached to Najera's Motion for Summary Judgment and attached hereto).
6. Following Plaintiff's signing of the consent form, Defendant Najera delivered Plaintiff's cellphone to the David M Petzold Digital Forensics Laboratory of Lehigh County and where the data contained on the cellphone and the cellphone SD card were extracted. (See Najera 037 as attached to Najera's Motion for Summary Judgment and attached hereto; Docket Document 70, pp. 22 – 33).
7. Defendant Mallery was provided a copy of the cellphone extraction report. (Docket Document 70, p 41).
8. There was no other cellphone searched or cellphone extraction obtained regarding Plaintiff.
9. Plaintiff voluntarily consented to the January 10, 2018 search and extraction of data from his cellphone and cellphone SD card.
10. Moving Defendant's report, dated March 12, 2018 report clearly and unambiguously states "(O)n February 20, 2018 I received a copy of a phone extraction from Upper Saucon Detective, Frank Najera a cell phone belonging to Martin Jones. I copied the extraction and placed it on file with this case file." (emphasis added).
11. Moving Defendant never "searched" Plaintiff's phone. He clearly received the extractions from Defendant Najera.

Respectfully submitted,

**BUCKS COUNTY LAW DEPARTMENT**

/s/ *Keith J. Bidlingmaier*

Keith J. Bidlingmaier, Esquire

Assistant County Solicitor

PA. Attorney I.D. No. 87776

East Court Street,

5th floor Doylestown, PA

215-348-6464

Attorney for Joshua Mallery

Dated: December 13, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Statement of Undisputed Facts in Support of Summary Judgment was electronically filed with the Court on December 13, 2021 and is available for viewing and downloading from the ECF System. The following counsel of record were served via electronic notification:

Paul G. Lees, Esquire  
ID No. PA 68886  
4905 W. Tilghman Street, Suite 300  
Allentown, PA 18104  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing Statement of Undisputed Facts in Support of Summary Judgment was served upon the following persons via first class mail, postage prepaid, addressed as follows:

Martin W. Jones  
NN-4778  
SCI-Camp Hill  
PO Box 8837  
2500 Lisburn Rd  
Camp Hill, PA 17001

**BUCKS COUNTY LAW DEPARTMENT**

/s/ *Keith J. Bidlingmaier*

Keith J. Bidlingmaier, Esquire  
Assistant County Solicitor  
PA. Attorney I.D. No. 87776  
East Court Street,  
5th floor Doylestown, PA  
215-348-6464  
Attorney for Joshua Mallery

Dated: December 13, 2021

# UPPER SAUCON TOWNSHIP PD

## Incident Report Form

US-17-05034

11/08/2017

Assist Agency

## COMMENTS / NARRATIVES

Title

118

Narrative Created By / Created On

ROGER MILLER

11/08/2017

Narrative Updated By / Update On

ROGER MILLER

11/08/2017

Approved By / On

Detective F. Najera USPD #12 requested marked patrol Units stop a black Chrysler Coupe PA: JPH-6844, operated by wanted person Martin Jones. He was listed for a failure to appear violation in J-Net from District Court 31-3-03. Mr. Jones also was in the area of a known drug exchange block.

I Sgt. R. Miller stopped Jones after checking Penn Dot records while following the vehicle confirming as registered to the same. Upon contact, I requested Jones show his hands at the driver widow placing them out of the door. I handcuffed him from the vehicle for safety with exiting cuffing extraction. As I placed one cuff on him to his right hand, he reached to the front area of his body with the left hand not in my view now. I immediately corrected his action verbally and he put his hand back to cuff. However, he is seen trying to access his right shirt breast pocket in the car camera. Just after cuffing I checked him for weapons, I immediately saw a vinyl purse type bag hand size in his left front pocket containing glass pipes commonly used to smoke methamphetamine. I told him I saw the methamphetamine pipes. He said he found them and they are not his.

Detective Najera resumed the control of Jones and conducted a drug investigation. He ultimately was charged with drug paraphernalia and sent to Lehigh County Central Booking under the a no known current address drug charge / wanted person hit. His car was towed by Grant's Automotive for safety.

*Arrest DTF  
by FME*

US-17-05034

11/8/2017



Approved By:  
Approved On:

PAGE 3



# UPPER SAUCON TOWNSHIP POLICE DEPARTMENT PRISONER DETENTION RECORD

LOG #: US-17-05034 DATE: 11/7/2017 ARRESTING OFFICER: F. Najera #12  
 NAME: Martin William Jones DOB: [REDACTED] ASSISTING OFFICER: R. Miller Sr. #9  
 ARREST INFORMATION (CHARGES): Title 35 Act 64 K. Williamson #29

## CELL BLOCK & TEMPORARY HOLDING RECORD

HOLDING AREA: ☐ CELL #1 ☒ CELL #2 ☐ CELL #3 ☐ BOOKING AREA (BA) ☐ INTERVIEW ROOM (IR)

TWENTY-MINUTE CHECKS OF CELL & HOLDING AREA (RECORD INITIALS & TIME)

<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>	<u>KA</u>
:20	:40	1:00	1:20	1:40	2:00	2:20	2:40	3:00	3:20	3:40	4:00	4:20	4:40	5:00	

PHONE CALL: \_\_\_\_\_ TIME: \_\_\_\_\_ FOOD/DRINK: WATER TIME: 1.5 hrs.

LOCATION: USPD HQ LOCATION: \_\_\_\_\_ LOCATION: \_\_\_\_\_ LOCATION: \_\_\_\_\_  
 TIME IN: 0215 TIME IN: \_\_\_\_\_ TIME IN: \_\_\_\_\_ TIME IN: \_\_\_\_\_  
 TIME OUT: \_\_\_\_\_ TIME OUT: \_\_\_\_\_ TIME OUT: \_\_\_\_\_ TIME OUT: \_\_\_\_\_  
 REASON: \_\_\_\_\_ REASON: \_\_\_\_\_ REASON: \_\_\_\_\_ REASON: \_\_\_\_\_

VIDEO MONITORING: ☒ YES ☐ NO OFFICER(S) WEAPONS SECURED: ☐ YES ☒ NO (Solo)  
 HOLDING AREA CHECKED FOR CONTRABAND PRIOR TO PRISONER: ☒ YES ☐ NO POST PRISONER: ☒ YES ☐ NO  
 DETAINEE IN TEMPORARY HOLDING AREA PHYSICALLY ATTENDED: ☒ YES ☐ NO

## PRISONER PROPERTY INVENTORY RECORD

INSTRUCTIONS: Please print clearly. Fill out completely. Enter N/A or draw a line through blocks not needed. Upon release, offer copy to detainee & forward original to records. Use reverse side if more space is needed.

- |                                   |                          |                                 |
|-----------------------------------|--------------------------|---------------------------------|
| 1. <u>(9x) 1.00 bills</u>         | 6. <u>phone cellidor</u> | 11. <u>gift card</u>            |
| 2. <u>(5x) 20.00 bills</u>        | 7. <u>screw driver</u>   | 12. <u>hat - cloth</u>          |
| 3. <u>(2x) 5.00 bills</u>         | 8. <u>butane</u>         | 13. <u>small flash light</u>    |
| 4. <u>Assorted coins</u>          | 9. <u>(2x) Massagers</u> | 14. <u>keys</u>                 |
| 5. <u>wallet / Assorted cards</u> | 10. <u>sockets</u>       | 15. <u>Handcuff key set 2nd</u> |
- Methamphetamine / Purple name pouch
- STORAGE OF PRISONER PROPERTY IN TEMPORARY PRISONER PROPERTY LOCKER: \_\_\_\_\_

TIME PLACED IN LOCKER: 2320 VERIFYING DETAINEE SIGNATURE: Kyle Wilcox #29

## RELEASE OF PRISONER PROPERTY

TIME REMOVED FROM LOCKER: 0235 DATE/TIME PROPERTY RELEASED: 11/8/17 Kyle Wilcox  
 DETAINEE SIGNATURE or SIGNATURE OF TRANSFER FACILITY PERSONNEL: [Signature]  
-Yellow items to jail

## MEDICAL EVALUATION (EXPLAIN ABNORMALTIES IN SUPPLEMENTAL REPORT)

CURRENT HEALTH	<input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> ILL <input type="checkbox"/> INJURED <input checked="" type="checkbox"/> COMPLAINS OF PAIN <input type="checkbox"/> OTHER: <u>KIPS</u>
BEHAVIOR (STATE OF CONSCIOUSNESS OR MENTAL STATUS)	<input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> DISORIENTED <input type="checkbox"/> CONFUSED <input type="checkbox"/> WITHDRAWN <input type="checkbox"/> INTOXICATED <input type="checkbox"/> VIOLENT <input type="checkbox"/> OTHER: <u>Assibly Narcotic use prior to contact</u>
BODY DEFORMITIES, TRAUMA MARKINGS, BRUISES, ETC.	<input type="checkbox"/> NONE <input checked="" type="checkbox"/> LIST: <u>Numerous Tattoos</u>
MEDICATIONS	<input checked="" type="checkbox"/> NONE <input type="checkbox"/> LIST: _____

**Upper Saucon Police Department****US-18-00159**

01/10/2018

**Incident Report Form****Assist Agency****COMMENTS / NARRATIVES**

Title

**INVESTIGATIVE REPORT**

Narrative Created By / Creation Date

**FRANCISCO NAJERA**

01/10/2018

Narrative Updated By / Update On

**FRANCISCO NAJERA**

01/10/2018

Narrative Approved By / Approved Date

**DATE:** 10JAN2018**SUSPECT(S):** Martin W. JONES**SUBJECT:** Agency Assist / Cellphone Download

Bucks County Detective Joshua MALLERY requested that I obtain consent from Martin W. JONES for the download of his cellphone. JONES's cellphone was in the custody of the Lehigh County Drug Task Force as a result of his Title 35 arrest.

I met with JONES this morning and obtained written consent (for the cellphone download) and advised him that his phone will be available for pickup at USPD headquarters.

**NOTE(S):** JONES' cellphone did not have a "hold" on it. It had been at DTF headquarters as a result of his November 8, 2017 arrest. JONES had requested that his phone be returned and I obtained the phone from DTF evidence and was holding it until JONES's arrival. He has since expressed a desire to cooperate with authorities in furthering a narcotics investigation and I referred him to MALLERY. As a result, MALLERY requested that the cellphone be downloaded.

The cellphone was downloaded at the David M. Petzold Digital Forensics Laboratory of Lehigh County and was assigned case number CF-18-00006.

**US-18-00159****01/10/2018****APPROVED BY:****APPROVED ON:****PAGE 2**

IRF 1.6

**NAJERA 036**



PART I

SUBMITTED TO

LC DCL (1-2014)

LEHIGH COUNTY

## REQUEST FOR FORENSIC ANALYSIS

## TYPE OF ANALYSIS

- ☒ CELL PHONE  
☐ COMPUTER  
☐ GPS UNIT  
☐ CAMERA  
☐ GAME CONSOLE  
☐ EXTERNAL MEDIA  
☐ OTHER/HAND HELD DEVICE  
☐ VIDEO/AUDIO  
☐ ALL OTHER

CF-18-00006

LAB NUMBER

1. SUBMIT REPORT TO (INVESTIGATING AGENCY'S NAME AND ADDRESS)

2. INVESTIGATOR'S NAME, RANK, BADGE NO. (TYPE/PRINT)

TELEPHONE NO.

EMAIL ADDRESS

DET. FRANK NAJERA / #012

610/282.3064

fn12@ustpd.org

3. INCIDENT NO.

US-18-00152

4. SUBSEQUENT SUBMISSION ☐

5. PROP. INV. NO.

6. DATE OCCURRED

10 JAN 2018

7. OFFENSE

TITLE 35

8. LOCATION (CITY - TWP - BORO)

UPPER SAULCON TOWNSHIP

9. COUNTY

LEHIGH

10. VICTIM

CWA

11. ACCUSED/SUSPECT NAME

MARTIN JONES

☒ ACCUSED☐ SUSPECT☐ WITNESS

12. PROP. INV. ITEM NO.

## PART II

## EVIDENCE INFORMATION

13.

DESCRIPTION

1 ZTE CELLPHONE S/N: 329F66835073

14. REMARKS/ADDITIONAL INFORMATION

## PART III

## CHAIN OF CUSTODY

15. ITEM(S)  
TRANSFERRED

16. DATE

1/10/18

18. RELINQUISHED BY

17. TIME

0915

19. RECEIVED BY

ITEM(S)  
TRANSFERRED

DATE

1/10/18

RELINQUISHED BY

TIME

1430

RECEIVED BY

LABORATORY

NAJERA 037





**Upper Saucon Township Police Department**  
**5500 Camp Meeting Road**  
**Center Valley PA 18034**  
**610-282-3064**

DSC# 45-18-00152

## CONSENT TO SEARCH COMPUTER AND ELECTRONIC MEDIA

I, MARTIN JONES, hereby authorize the Officers of the Upper Saucon Police Department and any other persons so designated by the department to search the premises located at: N/A and conduct a complete search of my computer(s), serial number(s), ZTE MODEL E717VL S/N: 329F66835073 with other identifiers, and any electronic storage devices and all removable computer media devices and peripherals associated with my referenced computer(s). A bit stream copy of any and all devices may be made, for further analysis, retrieved from the complete search of any and all information obtained or derived from the search. The search is to include all areas of the hard drive, and removable media, whether password protected or encrypted, including but not limited to, hidden partitions, directories, and files, erased files, deleted files, files marked for deletion, slack space, and unallocated space on the drive and other electronic storage devices and media.

I further authorize the above members of the Upper Saucon Police Department to remove, take with them, retain custody over and search any property in connection with the copying and/or searching of the information sought by police including but not limited to, referenced computer(s) and all storage devices and removable media(s) associated with described computer(s) and peripherals, provided I am subsequently given a receipt for anything that is removed.

I also affirmatively represent that I am the lawful owner of the above described computer(s) and/or associated property, and I have possession and control over it for the purpose of the this consent search. I give this consent freely and voluntary without fear, threat, coercion, or promise of any kind. I give this consent with full knowledge of my constitutional right to refuse or give my consent for the removal and search of the aforementioned item, a right which I am waiving by signing this consent. I can exercise these rights at any time and my consent can be withdrawn during the search and seizure of these items.

Date 1/10/18 Time 0857

Consenting party's signature [Signature]

Printed name and date of birth MARTIN JONES

Search Conducted by Najera / Campbell

Witness's \_\_\_\_\_

\_\_\_\_\_